

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 18529 of 2004

Between:

M/s. Manjira Agricultural Company, a regd firm vide Regn No. 10/96 repby
Managing Partner

G. Satyanarayana S/o Ramulu R/o 38, MIG Railway Vihar, Serilingampally
Mandal, RR District

..... PETITIONER

AND

- 1 The Joint Collector, Medak District at Sangareddy
- 2 The Revenue Divisional Officer Sangareddy Revenue Division, Patancheru
,Medak District
- 3 Mandal Revenue Officer, Patancheru Mandal, Medak District
- 4 Bioni Sathaiah S/o Venkaiah
R/o Narregudem H/o Ameenpur Patancheru Mandal Medak District
- 5 Bioni Peddulu S/o Venkaiah
R/o Narregudem H/o Ameenpur Patancheru Mandal Medak District
- 6 Bioni Mallaiah S/o Venkaiah
R/o Narregudem H/o Ameenpur Patancheru Mandal Medak District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, one more particularly in the nature of a Writ of Certiorari calling for the records relating to the orders of the 1st respondent made in proceedings No. F3/5008/2004-F3/24/ROR/2004 dated 4-10-2004, declare the same as being illegal, arbitrary, unconstitutional in excess of authority in jurisdiction and contrary to the provisions of A.P. Rights in Land and pattadar pass books Act, 1971 and Rules, 1989 and quash the same

Counsel for the Petitioner:MR.S.NIRANJAN REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.2CCs to

2.2CD copies

3.2CCs to

Form-NIC-OGS/WP{TRT}

THE HONOURABLE SRI JUSTICE

A.GOPAL REDDY

W.P.No.18529 of 2004

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Order:

In this writ petition, petitioner seeks to invoke the Certiorari jurisdiction to call for the records relating to the orders of Joint Collector, Medak at Sangareddy—1st respondent in File No.F3/5008/2004-F3/24/ROR/2004 dated 04-10-2004 and to quash the same.

It is stated that one Mr. Veera Reddy purchased Ac.14.08 gts. of land in Sy.No.970 of Beeramguda h/o Ameenpur village, Patancheru Mandal, Medak District under a registered sale deed dated 13-01-1958 from the father of the respondents 4 to 6 herein and he was in possession of the land from the date of sale. The name of Veerareddy's brother's son Madhusudhan Reddy has been recorded in the revenue records till the partition took place in the year 1982 in which property was allotted to the share of two brothers of said Veera Reddy P.Srinivas Reddy and P.Ram Reddy. On such allotment their names were mutated in the revenue records from 1982 onwards in turn P.Srinivas Reddy and Ram Reddy executed General Power of Attorney dated 09-07-1990 in favour of V.Narayan Rao authorizing him to sell the land. Petitioner herein purchased the said land from GPA under a registered sale

deed vide document No.1272/97 dated 04-03-1997 and since from the date of purchase petitioner is in possession of the property and the 3rd respondent by order dated 22-06-1998 mutated the name of the petitioner over the suit land after due enquiry and accordingly issued pattadar pass books and title deeds duly attested by the 2nd respondent. While so, when the respondents 4 to 6 who are legal representatives of the original Pattadar—Venkaiah tried to interfere with the possession of the petitioner, it filed O.S.No.209 of 1999 before the Principal Junior Civil Judge, Sangareddy for perpetual injunction restraining them from interfering with the possession over the land in Sy.No.970. Meanwhile respondents 4 to 6 caused an inspection and MRO after inspecting the land passed an order deleting the name of the petitioner and ordered for mutation of respondent's names. Challenging the same petitioner filed an appeal before the RDO, who allowed the same and ordered for mutation of petitioner's name in the revenue records. Against the same respondents 4 to 6 filed a revision under Section 9 of A.P. Record of Rights in Land and Pattadar pass books Act, 1971 (for short 'the Act') before the Joint Collector which is impugned in the present writ petition.

It is stated that on receipt of summons in the suit filed by the petitioner, respondents 4 to 6 approached the MRO and realized the fraud that has been played against them in fabricating the documents and tampering the records in deleting their names in the revenue records without their knowledge. The suit filed by the petitioner was dismissed on 07-05-2004 and against which it filed appeal—A.S.No.35 of 2004 before the Principal District Judge, Medak at Sangareddy which was also dismissed on 29-06-2004 observing that the claim of the petitioner herein is false and based on fabricated documents and tampering the records with a specific finding that the petitioner or its vendors were never cultivated the schedule land or they produced any document that they are in possession of the schedule land. Apart from the same the Joint Collector also observed that respondents 4 to 6 herein are in possession of the land and the appeal filed by the petitioner is not maintainable as no orders were passed by the MRO, Patancheru and the RDO erroneously allowed the appeal and ordered for deletion of their names in the year 1999-200 by inserting the name of the petitioner. While observing the same the Joint Collector held that RDO entertained the appeal under Section 5(5) of the Act r/w 21 of the Rules without their being any order number or date of MRO or without being enclosed a certified copy of the order

challenged under appeal as contemplated under sub-Rule (1) of Rule 21 of the A.P. Rights in Land & Pattadar Pass Books Rules, 1989 (herein after referred to as 'the Rules') and admitting the appeal by condoning the delay, petitioner cannot have any grievance in recording the names of respondents 4 to 6 for the year 1999-2000 and also held that petitioner or its vendors were never in possession of the schedule land. Since the respondents 4 to 6 are legal heirs and they are in continuous possession over the schedule land without any interruption, the order passed by the RDO cannot be sustained and accordingly set aside the same. In view of setting aside the order the present writ petition is filed contending that no notice of intimation was given to the petitioner as reflected under Section 5(3) of the Act and Rules 15 and 16 of the Rules and petitioner came to know about the same only when the said pahani was sought to be tendered in evidence in the pending suit—O.S.No.209 of 1999. The order of amendment made by the recording authority must be preceded by a notice issued by the interested parties, and the appeal can be filed within 60 days from the date of communication of the said order. Though there is no communication petitioner filed the appeal within 60 days, which was rightly entertained by the RDO. The Joint Collector erred in exercising the jurisdiction in allowing the revision. The Joint Collector cannot adjudicate the disputed questions of fact while considering the revision filed by the respondents 4 to 6. His jurisdiction is limited only to verify the correctness of the procedure adopted by the RDO. Once the petitioner's name was duly recorded in the revenue records pursuant to mutation order dated 22-06-1998 based upon the registered sale deed dated 04-03-1997, 3rd respondent—M.R.O. cannot make amendment incorporating the names of the respondents without intimation to the petitioner which is in contravention of procedure contemplated under Rule 16 and 17 of the Rules. The appellate authority rightly exercised the jurisdiction in ordering deletion of their names. The 1st respondent—Joint Collector cannot adjudicate the rights of the respondents 4 to 6 for which they have to invoke the jurisdiction of the civil court. The 1st respondent has committed a grave error in holding that the petitioner has no right in view of consistent manner in which the entries made in the revenue records right from the year 1965 onwards. The finding arrived at by the Joint Collector that the petitioner has no right over the suit schedule land is erroneous and liable to be set aside.

Opposing the claim of the petitioner, respondents 4 to 6 filed a counter stating that as

per Section 4 (7) of the Act notice has to be given to all the persons interested before effecting mutation. The 3rd respondent without issuing any notice to the respondents 4 to 6 amended the records in the year 1998 incorporating the name of the petitioner, therefore, RDO rightly stayed the proceedings. It is stated that respondents 4 to 6 were in continuous possession over the schedule land which is evident from the record submitted by the MRO and for the first time petitioner's name was recorded during the year 1989 that too without giving any notice to the respondents 4 to 6 who were in possession of the property, which was rightly rectified by the 3rd respondent. When the respondents' names were recorded in the year 1999-2000 and in view of finding arrived at by the Court below that the petitioner or its vendors were never in possession of the schedule property, its name ought not to have been recorded in the possession column. The order passed by the Joint Collector is justified and prayed for dismissal of the writ petition.

Learned counsel for the petitioner while reiterating the submissions made in the affidavit filed in support of the writ petition contended that once the petitioner's name was recorded in the revenue records as per the sale deed executed in its favour, the MRO cannot alter the same without notice to the petitioner. In view of the same, RDO rightly allowed the appeal filed by the petitioner against such alternation. The Joint Collector has exceeded his jurisdiction in going into the merits of the case, which is the function of the civil court.

It is not in dispute that father of the respondents 4 to 6 was the pattadar and possessor of the property. The memo issued by the M.R.O. dated 11-06-2004 on which reliance was placed by the Joint Collector reveals that there are no records and the reasons for changing the names in the year 1961-62, 1981-82 for incorporating the name of Mr. Madhusudhan Reddy and thereafter, Mr. Ram Reddy and Srinivas Reddy and how the name of the petitioner herein was incorporated in the year 1989-90 in the ROR when the petitioner purchased the land first time in the year 1997 and petitioner's name was recorded as pattadar in the year 1989-90 and 1997-98 onwards. As observed by the RDO from year 1990-97 the names of Srinivas Reddy & Ram Reddy were shown as pattadar by leaving the possession column blank. The Panchanama dated 09-07-1998 prepared by the MRO,

Patancheru after inspecting the suit schedule property also discloses that the respondents 4 to 6 have cultivated the schedule land by raising rabi crops viz., Pacha Jona, Sun Flower and Gongura. The Report called for during the pendency of the proceedings of MRO also discloses physical possession of the respondents 4 to 6. Apart from the same, finding of the civil court was that the petitioner was not in possession of the suit schedule property and the same was recorded by manipulating the records and documents.

It is incumbent on the M.R.O. to follow the procedure for altering the revenue record based on the sale deeds. The facts reveal no notice whatsoever was issued to the respondents 4 to 6 for alteration and the same was taken place behind their back. When the petitioner's right to claim possession basing upon the revenue record was negated by the Civil Court holding that the respondents are in possession of the property, the M.R.O. rightly restored the status quo ante in the name of the respondents, which was affirmed by the Joint Collector in the impugned order while setting aside the order passed by the R.D.O. In the absence of procedure being followed by the M.R.O. in mutation of the name of the petitioner in the revenue records, if the order passed by the Joint Collector is set aside, it will amount to restoring an illegal order. In view of the same, it is not a fit case where this Court can exercise Certiorari jurisdiction against the said order. If the petitioner claims any right over the suit schedule property it is open for it to file a comprehensive suit for declaration of title and can seek amendment of the records as per the declaration so obtained. Basing upon such declaration, if any, it is always open for the petitioner to approach the revenue officials for mutation as contemplated under Section 8(2) of the Act.

With the observation, as above, writ petition is dismissed. No costs.

_____ A.GOPAL REDDY, J.

31-12-2004

Murthy